

## Message Text

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TAGS: SHUM, PINT, NP

SUBJECT:DRAFT HUMAN RIGHTS EVALUATION

1. FOLLOWING IS NEA/INS DRAFT OF HUMAN RIGHTS EVALUATION  
OF NEPAL. REQUEST EMBASSY COMMENTS BY OOB WASHINGTON  
FRIDAY JULY 1.

2. BEGIN TEXT: NEPAL ENTERED THE MODERN WORLD ONLY IN 1951.  
BEFORE THAT TIME, THE POLICY OF THE RANA PRIME MINISTERS WAS  
TO KEEP NEPAL ISOLATED FROM OUTSIDE INFLUENCES AS A MEANS TO  
PRESERVE ITS INDEPENDENCE, AND THEIR OWN POWER. AS A  
RESULT, NEPAL'S TRADITIONAL CULTURE COEXISTED WITH A QUASI-  
FEUDAL POLITICAL SYSTEM. BY LEADING THE REVOLUTION WHICH  
OVERTHREW THE RANA PRIME MINISTERS, KING TRIBHUVAN BECAME  
A LIBERATOR IN NEPALESE EYES. HIS SON, KING MAHENDRA,  
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CONSOLIDATED NAPAL'S INDEPENDENT POSITION-IN THE WORLD AND  
STARTED THE COUNTRY ALONG THE ROAD OF INSTITUTION BUILDING  
AND ECONOMIC DEVELOPMENT. KING BIRENDRA IS CARRYING ON THE  
WORK OF NATION BUILDING, WHILE ATTEMPTING TO PRESERVE THE  
AUTHORITY OF THE MONARCHY. NEPAL HAS MADE TREMENDOUS  
STRIDES IN 25 YEARS FROM A STANDING START, BUT IS

CONFRONTED BY STAGGERING CHALLENGES IN THE SHAPE  
BURGEONING POPULATION AND DETERIORATING ENVIRONMENT. ITS  
OVERWHELMING "HUMAN RIGHTS" PROBLEM IS NOT POLITICAL, BUT

ECONOMIC; THE DESPERATE POVERTY OF THE GREAT MAJORITY OF THE PEOPLE, WHICH THE GOVERNMENT IS TRYING, WITH FOREIGN AID, TO ALLEVIATE.

3. (A) CONDITION OF HUMAN RIGHTS IN NEPAL

4. (1) RESPECT FOR THE INTEGRITY OF THE PERSON. THE CONSTITUTION OF 1961, AS AMENDED, PROVIDES FOR MANY INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND FREEDOMS. IT GUARANTEES FREEDOM OF SPEECH, EXPRESSION, PEACEFUL ASSEMBLY AND RELIGION. IT PROHIBITS DISCRIMINATION AS WELL AS DEPRIVATION OF LIFE OR LIBERTY EXCEPT BY DUE PROCESS. THE CONSTITUTION ALSO ESTABLISHES PROCEDURES FOR ARREST, TRIALS AND DETENTION, ALTHOUGH PREVENTIVE DETENTION IS A PERMITTED EXCEPTION.

PREVALENCE OF SPECIFIC ABUSES:

A. TORTURE - TORTURE IS NOT CONDONED BY THE GOVERNMENT AND NOT COMMONLY PRACTICED IN NEPAL. OCCASIONAL CHARGES OF TORTURE IN THE PAST HAVE NOT BEEN SUBSTANTIATED.

B. CRUEL, INHUMAN, OR DEGRADING PUNISHMENT - CAPITAL PUNISHMENT IS SELDOM IMPOSED IN NEPAL. NEPALESE PRISON CONDITIONS REFLECT THE GENERAL STANDARD OF LIVING IN ONE OF THE LEAST DEVELOPED COUNTRIES IN THE WORLD. POLITICAL LIMITED OFFICIAL USE  
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PRISONERS OFTEN RECEIVE BETTER TREATMENT THAN THOSE CONVICTED OF CRIMINAL ACTS, IN TERMS OF VISITORS, READING AND WRITING MATERIALS, MEALS FROM HOME, ETC. THE GOVERNMENT NO LONGER IMPOSES EXILE AS A PUNISHMENT.

C. ARBITRARY ARREST OR IMPRISONMENT - THE PUBLIC SECURITY ACT OF 1961 PROVIDES FOR PREVENTIVE DETENTION AND "OTHER MEASURES" AS MAY BE REQUIRED TO "MAINTAIN PEACE AND SECURITY." OPPONENTS OF THE MONARCHY HAVE IN THE PAST BEEN JAILED WITHOUT CHARGES OR LEGAL APPEAL FOR LONG PERIODS OF TIME. THE BEST KNOWN OPPOSITION LEADER, FORMER PRIME MINISTER B. P. KOIRALA, WAS HELD FOR EIGHT YEARS DURING THE 1960'S, THEN REARRESTED LAST DECEMBER WHEN HE RETURNED TO KATHMANDU FROM SELF-IMPOSED EXILE IN INDIA. HOWEVER, KOIRALA WAS RECENTLY RELEASED TO SEEK MEDICAL TREATMENT IN THE U.S. HIS MAJESTY'S GOVERNMENT HAS MADE CLEAR THAT IT WILL CONTINUE TO ARREST PERSONS WHO VIOLATE THE GOVERNMENT'S GROUND RULES FOR ACCEPTABLE POLITICAL ACTIVITY, BUT THIS POWER HAS IN RECENT TIMES BEEN USED RATHER SPARINGLY.

D. DENIAL OF FAIR PUBLIC TRIAL - NEPAL HAS A FAIRLY WELL-ORGANIZED SYSTEM OF COURTS WHICH HANDLES NORMAL CASES WITH A REASONABLE DEGREE OF INDEPENDENCE. HOWEVER, ALL JUDGES ARE IN EFFECT APPOINTED BY THE KING, WHO REMAINS AN ABSOLUTE MONARCH.

E. INVASION OF THE HOME - ARBITRARY SEARCH AND SEIZURE

HAS NOT BEEN A HUMAN RIGHTS ISSUE IN NEPAL. (EMBASSY  
PLEASE ELABORATE.)

5. (2) RESPECT FOR CIVIL AND POLITICAL LIBERTIES. NEPAL  
IS NOMINALLY A CONSTITUTIONAL MONARCHY BUT IN PRACTICE  
THE KING IS THE SOLE SOURCE OF AUTHORITY FOR ALL  
GOVERNMENTAL INSTITUTIONS IN A HIGHLY TRADITIONAL SOCIETY,  
AND LOYALTY TO THE MONARCHY IS THE ONE POLITICAL  
ORTHODOXY. POLITICAL PARTIES WERE BANNED BY THE KING IN  
1960 AND REPLACED BY A SYSTEM OF "PANCHAYAT" COUNCILS  
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FROM THE VILLAGE TO NATIONAL LEVEL, INTENDED TO INVOLVE  
THE PEOPLE IN PUBLIC AFFAIRS WHILE PROTECTING THE CROWN'S  
AUTHORITY.

A. FREEDOM OF THOUGHT, RELIGION, ASSEMBLY - BEYOND  
PROFESSION OF LOYALTY TO THE CROWN, POLITICAL THOUGHT IS  
NOT CONTROLLED IN NEPAL. THE NEPALESE ARE PROUD OF THEIR  
LONG TRADITION OF RELIGIOUS TOLERANCE, EXEMPLIFIED BY  
HINDUS AND BUDDHISTS WORSHIPPING IN EACH OTHER'S SHRINES.  
BUT TO GUARD AGAINST DISRUPTIVE INFLUENCES IN THIS AREA,  
THE CONSTITUTION BANS PROSELYTIZING. IN GENERAL,  
NEPALESE ARE FREE TO ASSEMBLE AND EXPRESS THEMSELVES  
EXCEPT IN POLITICAL OPPOSITION TO THE GOVERNMENT.

B. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN  
TRAVEL AND EMIGRATION - THERE ARE NO POLITICAL RESTRIC-  
TIONS ON MOVEMENT WITHIN THE COUNTRY OR ABROAD, ALTHOUGH  
ECONOMIC CONSTRAINTS ON MOBILITY ARE OF COURSE SEVERE  
FOR THE VAST MAJORITY OF NEPALESE.

C. DEMOCRATIC PROCESSES ASSURING THE FREEDOM TO  
PARTICIPATE IN THE POLITICAL PROCESS - THE OVERT POLITICAL  
PROCESS IN NEPAL IS OPEN ONLY TO THOSE WHO SUPPORT THE  
MONARCHY. ORGANIZATION IN THE FORM OF POLITICAL PARTIES  
IS BANNED. HOWEVER, THE KING RECENTLY CALLED FOR A  
STUDY OF WAYS TO OPEN UP THE ELECTORAL PROCESS. FREEDOM  
OF SPEECH AND PRESS IN NEPAL ARE LIMITED BY THE PRINCIPLE  
THAT THE MONARCHY AS AN INSTITUTION AND THE ROYAL FAMILY  
IN THEIR PERSONS ARE ABOVE CRITICISM. THE GOVERNMENT  
CONTROLS THE PRINCIPAL ENGLISH AND NEPALI DAILY NEWS-  
PAPERS, BUT NUMEROUS SMALL PAPERS AND JOURNALS DO CARRY  
ON A SOMETIMES SPIRITED CRITIQUE OF GOVERNMENT (AS  
DISTINGUISHED FROM PALACE) ACTIONS. FOREIGN PUBLICATIONS  
ARE SOMETIMES BANNED IN NEPAL IF THEY CARRY SOMETHING  
OFFENSIVE TO THE PALACE.

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6. (3) GOVERNMENT DEVELOPMENT POLICIES. THE KING HAS

ASSUMED THE ROLE OF LEADER OF THE ECONOMIC DEVELOPMENT EFFORT AND FREQUENTLY TRAVELS AROUND THE COUNTRYSIDE TO INSPECT DEVELOPMENT PROJECTS. HIS INSISTENCE THAT PROGRAMS BE SPREAD AMONG THE FOUR DEVELOPMENT REGIONS RATHER THAN CONCENTRATED IN KATHMANDU AND THE TERAJ TENDS TO BENEFIT THE POORER AREAS OF THE COUNTRY. THE GOVERNMENT CARRIES ON WIDE-RANGING DEVELOPMENT EFFORTS THROUGH ITS FIVE YEAR PLANS, AND ITS PRIORITIES ARE GENERALLY APPROVED AND SUPPORTED BY A LARGE NUMBER OF AID DONORS. NEPAL, LIKE MOST COUNTRIES, HAS PROBLEMS WITH CORRUPTION, BUT IT DOES NOT APPEAR TO BE ON SUCH A SCALE AS TO COMPROMISE THE OVERALL DEVELOPMENT EFFORT.

7. (4) JUSTIFICATION FOR POLICIES LIMITING HUMAN RIGHTS. THE BASIC RATIONALE FOR CURTAILING NEPAL'S EXPERIMENT WITH DEMOCRATIC FORMS IN 1960 WAS THAT A TRADITIONAL SOCIETY ATTEMPTING TO MODERNIZE AND DEVELOP ECONOMICALLY COULD NOT AFFORD TO EXPEND ITS ENERGY ON FREE POLITICAL ACTIVITY. AT THE SAME TIME, IT WAS ASSERTED THAT THE TRADITIONAL MONARCHY WAS THE ONE INSTITUTION WHICH COULD MAINTAIN THE NATIONAL COHESION AND INDEPENDENCE WHICH WERE PRECONDITIONS TO ANY SUCCESSFUL DEVELOPMENT EFFORT. LIMITATIONS ON POLITICAL ACTIVITY, INCLUDING PRESS CENSORSHIP AND PREVENTIVE DETENTION, WERE AND ARE DEFENDED AS NECESSARY TO MAINTAIN INTERNAL ORDER AND NATIONAL SECURITY. WHETHER NEPAL WILL MOVE TOWARD SOME FORM OF WESTERN CONSTITUTIONAL GOVERNMENT OR RETAIN AN ESSENTIALLY TRADITIONALIST REGIME - EITHER AS A MONARCHY OR SOME OTHER FORM - CAN ONLY BE ANSWERED BY TIME.

8. (5) OUTSIDE INVESTIGATION OF VIOLATIONS. THE GOVERNMENT OF NEPAL HAS NOT BEEN RECEPTIVE TO VISITS BY INVESTIGATORS OR OBSERVERS FROM INTERNATIONAL GROUPS.

9. (B) ANALYSIS AND RECOMMENDATIONS  
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10. (1) U.S. LEVERAGE ON NEPAL. BECAUSE OF OUR LONG-STANDING FRIENDSHIP AND AMERICA'S STATUS AS A SUPER POWER, THE NEPALESE VALUE GOOD RELATIONS WITH THE U.S. AND LISTEN TO OUR VIEWS. HOWEVER, WE HAVE VERY LIMITED GEO-POLITICAL LEVERAGE OVER THIS REMOTE COUNTRY ON THE OTHER SIDE OF THE WORLD, AND THE NEPALESE WOULD NOT NECESSARILY HEED OUR ADMONITIONS ON INTERNAL MATTERS, SUCH AS PREVENTIVE DETENTION, AND WOULD REGARD OUR

CRITICISM AS UNWARRANTED INTERFERENCE. NEPAL, AS A RELATIVELY LEAST DEVELOPED COUNTRY, DEPENDS ON FOREIGN AID FOR A LARGE PART OF ITS DEVELOPMENT EFFORT, AND A SIGNIFICANT PORTION OF THAT AID COMES FROM THE UNITED STATES, EITHER BILATERALLY OR THROUGH THE IFI'S. ANY

CUT-OFF OF THAT AID FOR HUMAN RIGHTS REASONS WOULD DEPRIVE THE POOR MAJORITY OF NEPALESE OF ANY HOPE FOR A BETTER LIFE AND WOULD PROBABLY NOT BENEFIT THE FEW POLITICAL PRISONERS IN THE COLNTRY. IN ANY CASE, U.S. AID TO NEPAL, WHICH IS GIVEN STRICTLY FOR HUMANITARIAN PURPOSES AND TARGETED TO BENEFIT THE POOR MAJORITY, WOULD PROVIDE LIMITED LEVERAGE TO MODIFY NEPALESE HUMAN RIGHTS PRACTICES.

11. (2) INDIAN IMPACT ON NEPAL. DEVELOPMENTS IN INDIA CAST A LONG SHADOW ON NEPAL. THE RESURGENT FORCES OF DEMOCRACY IN INDIA HAVE ALREADY HAD AN IMPACT. J. P. NARAYAH, THE INDIAN ELDER STATESMAN, AND SOME MEMBERS OF THE RULING JANATA PARTY LAUNCHED A CAMPAIGN FOR THE FREE-ING OF FORMER PRIME MINISTER B. P. KOIRALA AND HIS FOLLOWERS AND THE DEMOCRATIZATION OF NEPAL. PRIME MINISTER GIRI IN TURM LASHED OUT AT INDIAN "INTERFERENCE" IN NEPAL'S INTERNAL AFFAIRS AND CONDEMNED THE INDIAN MEDIA CAMPAIGN AGAINST NEPAL. THIS PROMPTED THE LIMITED OFFICIAL USE  
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GOVERNMENT OF INDIA TO CRITICIZE GIRI'S "FAILURE" TO UNDERSTAND THAT INDIA HAS A FREE PRESS WHICH IS EXPRESSING THE GENUINE FEELINGS OF MANY IN INDIA. AT THE SAME TIME, IT INDICATED IT WOULD NOT JOIN THE PUBLIC CAMPAIGN FOR HUMAN RIGHTS AND DEMOCRACY IN NEPAL THE KING THEN REACTED BY RESHUFFLING HIS CABINET, ORDERING A STUDY OF WAYS TO OPEN UP THE PANCHAYAT ELECTION PROCESS, AND EMPHASIZING THAT KOIRALA WAS BEING TRIED FOR SPECIFIC CRIMINAL ACTS RATHER THAN ARBITRARILY IMPRISONED FOR HIS POLITICAL BELIEFS. HE HAS SINCE RELEASED KOIRALA FOR MEDICAL TREATMENT IN THE U.S., WITHOUT DROPPING THE CHARGES AGAINST HIM.

12. (3) NEPALESE REACTIONS. THE HUMAN RIGHTS ISSUE IN NEPAL IS LARGELY IDENTIFIED WITH THE CASE OF B. P. KOIRALA AND ACTION AGAINST HIS FOLLOWERS. THUS ADVOCACY OF HUMAN RIGHTS IN NEPAL TENDS TO BE TAKEN BY THE PALACE AND TE OPPOSITION AS SUPPORT FOR B. P. KOIRALA AGAINST KING BIRENDRA. NEPALESE OFFICIALS AT FIRST REACTED VERY DEFENSIVELY AGAINST THE INDIAN PUBLIC CAMPAIGN FOR HUMAN RIGHTS AND DEMOCRACY IN NEPAL. THEY RELAXED SOMEWHAT WHEN THE GOVERNMENT OF INDIA MADE CLEAR THAT IT HAD NO INTENTION TO INTERFERE IN NEPAL'S INTERNAL AFFAIRS AND WOULD

NOT JOIN THE PUBLIC CAMPAIGN AGAINST NEPAL. KING BIRENDRA'S RELEASE OF B. P. KOIRALA FOR MEDICAL TREATMENT AND HIS ORDER TO RESTUDY THE PANCHAYAT SYSTEM INDICATE SOME FLEXIBILITY IN RESPONDING TO THE INDIAN PRESSURES, A FLEXIBILITY HE WOULD PROBABLY NOT FEEL HE HAD IF DIRECTLY CHALLENGED ON HU0AN RIGHTS BY THE GOVERNMENT OF INDIA.

13. NEPALESE OFFICIALS HAVE ALSO DISPLAYED CONSIDERABLE SENSITIVITY TO PRESIDENT CARTER'S EMPHASIS ON HUMAN RIGHTS AND HAVE MISINTERPRETED GENERAL AMERICAN STATEMENTS ON HUMAN RIGHTS AS SOMEHOW DIRECTED SPECIFICALLY AT NEPAL. A CASE IN POINT IS THEIR REACTION TO THE RECENT LIMITED OFFICIAL USE LIMITED OFFICIAL USE

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UNCLASSIFIED REPORT TO CONGRESS ON HUMAN RIGHTS IN COUNTRIES RECEIVING MILI-ARY TRAINING ASSISTANCE (WE TRAIN 2 OR 3 NEPALESE OFFICERS PER YEAR). ALTHOUGH THE REPORT WAS MANDATED BY CONGRESS LAST YEAR AND A COPY GIVEN TO THE GOVERNMENT OF NEPAL S MPLY AS A COURTESY, THIS WAS WIDELYSSUMED TO BE A DEMARCHE BY THE CARTER ADMINISTRATION IN REACTION TO THE SUBSEQUENT ARREST OF B. P. KOIRALA.

14. (5) RECOMMENDATIONS

A. LET PRIVATE INDIANS CONTINUE TO TAKE THE LEAD IN CAMPAIGNING FOR MORE HUMAN RIGHTS AND DEMOCRACY IN NEPAL.  
B. CONTINUE QUIET EFFORTS TO MAKE SURE NEPALESE LEADERS UNDERSTAND OUR NEW APPROACH TO HUMAN RIGHTS AND DO NOT MISINTERPRET OUR ACTIONS.  
C. FOR THE TIME BEING AT LEAST BE GUIDED IN OUR OFFICIAL ACTIONS BY THE INDIAN STANCE - CURRENTLY ONE OF CAREFUL OFFICIAL NON-INVOLVEMENT. END TEXT. CHRISTOPHER

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